

**IN THE UNITED STATES DISTRICT COURT FOR THE
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SPSS Inc.,)	
)	
Plaintiff/Counterdefendant,)	
)	No. 08 C 66
v.)	
)	Judge John W. Darrah
Norman H. Nie,)	
)	Magistrate Judge Arlander Keys
Defendant/Counterplaintiff,)	
)	
and C. Hadlai Hull,)	
)	
Defendant.)	

MOTION FOR LEAVE TO FILE AMENDED COUNTERCLAIM

Defendant/Counterplaintiff, Norman H. Nie (“Nie”) and Defendant C. Hadlai Hull (“Hull”), by and through their attorneys, move for leave to file an Amended Counterclaim pursuant to Federal Rule of Civil Procedure 15(b) to reflect additional facts that have occurred and come to light since filing their initial Counterclaim in this matter. In support of his motion, Nie and Hull state as follows:

1. Defendants Nie and Hull have owned two trademarks, SPSS and Statistical Package for the Social Sciences since the late-1960s (Registration Nos. 1,089,094 and 2,864,243), and licensed them to SPSS Inc through a license agreement effective February 1, 1975 (the “License Agreement”). The License Agreement granted SPSS Inc. the exclusive right to use the SPSS and Statistical Package for the Social Sciences trademarks and tradenames owned by Nie and Hull, subject to the terms and conditions of the License Agreement.
2. On January 3, 2008, Plaintiff SPSS Inc. filed a complaint for declaratory judgment requesting the Court’s determination of Plaintiff’s and Defendants’ rights and obligations under the License Agreement.

3. On January 28, 2008, Defendants Nie and Hull answered Plaintiff's Complaint and submitted a Counterclaim asserting that SPSS Inc. had repudiated the License Agreement and, therefore, have been infringing the SPSS trademark.

4. Since then, on May 8, 2008, Mr. Hull assigned all his rights to the trademarks registered under Registration Nos. 1,089,094 and 2,864,243 and his rights under the License Agreement to Professor Nie (the "Assignment," Exhibit E to the attached Amended Counterclaim). Accordingly, Professor Nie is the now sole owner of the SPSS trademark and the sole owner of rights under the License Agreement.

5. Because Mr. Hull has assigned to Professor Nie all his rights at issue in the lawsuit, the attached Amended Counterclaim reflects that he is no longer a Counterplaintiff.

Exhibit 1.

6. Messrs. Nie and Hull expect, and request that SPSS also dismiss Mr. Hull as a Defendant in its declaratory judgment action for the same reasons – Mr. Hull asserts no rights to the trademarks or License Agreement as to which SPSS seeks a declaration, having assigned those rights to Professor Nie.

7. The amendment at this early state of the litigation will not delay the proceedings and will not prejudice SPSS Inc. The scheduling order requires that parties file amended pleadings by June 2, 2008.

8. For the reasons stated herein and in the interests of justice, this amended pleading should be permitted pursuant to Federal Rule of Civil Procedure 15.

WHEREFORE, Defendant/Counterplaintiff Norman H. Nie and Defendant C. Hadlai Hull respectfully request that this Court grant them leave to file instanter the attached Amended Complaint, and for any other relief this Court deems just and equitable.

Dated: May 21, 2008

Respectfully submitted,

/s/Jennifer Waters

One of the Attorneys for
Defendant/Counterplaintiff Norman H. Nie
and Defendant C. Hadlai Hull

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CERTIFICATE OF SERVICE

I, Jennifer A. Waters, an attorney, state that I caused a copy of the attached **Motion for Leave to File Amended Counterclaim** to be served via the CM/ECF system, which will automatically serve notice of such filing on the following individuals this 21st day of May, 2008:

Robert J. Kriss
Edward H. Williams
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/s/Jennifer Waters

Jennifer A. Waters